

TENNESSEE ALCOHOLIC BEVERAGE COMMISSION

Minutes
August 17, 2006
1:00 p.m.

The regular meeting of the Tennessee Alcoholic Beverage Commission was held on Thursday, June 15, 2006 in Nashville, Tennessee at 9:30 a.m. Chairman John Jones, Commissioner Cynthia Bond and Commissioner Harlan Mathews were present. Executive Director Danielle Elks, CLEO Mark Hutchens, SAC Mike Cawthon, ASAC Andy Woodall, SA Matthew Larkins, SA Tina Jack and SA Stacey Fry from the staff were present.

1. **The Minutes for July 20, 2006 Commission Meeting were amended to reflect Commissioner Bond as being present.**

2. **RETAIL PACKAGE STORES**

- A. **RED BANK WINE AND SPIRITS**
RED BANK, TENNESSEE (HAMILTON COUNTY)

Licensee/Seller: Red Bank Wine & Spirits, LLC

Before the Commission is a request for a transfer of location for the retail store currently located at 3216A, Dayton Boulevard in Red Bank, Tennessee. The licensee wishes to transfer its location to 3849 Dayton Boulevard, Suite 113 in Red Bank, Tennessee. This request is based upon the lack of parking and the need for additional space. The building at the new location is currently under construction. All documentation has been submitted with the exception of the following:

- a. Use and Occupancy permit;
 - b. TABC Inspection.

Discussion/Action Taken:

Director Elks reviewed the application for the Commissioners. She stated that the staff has received all documentation with the exception of the Use and Occupancy Permit and the TABC Inspection. She recommended approval upon receipt of the remaining documentation. Commissioner Bond made a motion to approve upon submission of the remaining documentation. Commissioner Mathews seconded the motion and it passed with 3 ayes.

**B. DTS WINE AND SPIRITS
FRANKLIN, TENNESSEE (WILLIAMSON)**

Applicant: DTS, LLC

Members: Jim Torino, John Dant, III, and Meredith Schultenover

Before the Commission is a request for new retail store to be located at 3070 Mallory Lane in Franklin, Tennessee. Jim Torino, John Dant, III, and Meredith Schultenover desire to operate the store as an LLC, with Mr. Dant and Mr. Torino each owning 40%, and Ms. Schultenover owning 20%. Based upon applicants' questionnaires, Mr. Torino and Mr. Dant are each investing \$150,000, while Ms. Schultenover is investing \$120,000. Financing is based upon personal funds and loans with PNC bank and USAA Federal Bank. All documentation has been submitted with the exception of the following:

- a. TABC Inspection;
- b. Use and Occupancy;
- c. All questions on application answered;
- e. Certificate of Compliance for Mr. Torino and Ms. Schultenover;
- f. Mr. Torino's bank credit check signed by bank;

Discussion/Action Taken:

Mr. Robert Cook, attorney and Ms. Meredith Schultenover were present at the meeting. Director Elks reviewed the application for the Commissioners. She stated that the staff has received all documentation with the exception of the Use and Occupancy Permit and the TABC Inspection. Director Elks further advised the Commission that this retail store was located adjacent to Sam's Warehouse. The applicant was advised that Sam's cannot have any interest, directly or indirectly, with the operation of the retail business. The applicant stated that the only interest Sam's had, and would have in the future, was that as a landlord. She recommended approval upon receipt of the remaining documentation. Commissioner Mathews made a motion to approve upon submission of the remaining documentation. Commissioner Bond seconded the motion and it passed with 3 ayes.

**C. 109 WINES AND LIQUORS
GALLATIN, TENNESSEE (SUMNER COUNTY)**

Applicant: 109 Wines and Liquors, Inc.

Stockholders: Donna Hudson

At the January 26, 2006, Commission meeting, 109 Wines and Liquors, Inc. was approved for a retail license pending the receipt of deed, TABC inspection, and

the use and occupancy permit. Staff has received a copy of the deed. On April 12, 2006, the Applicant requested an extension of time to open due to unforeseen construction approvals and the recent tornadoes—which staff approved. Applicant was not been able to finish construction, and requested the last extension of time at the May, 2006 Commission meeting. Mrs. Hudson indicated at the May, 2006 meeting that the City of Gallatin had been severely damaged by tornadoes. Because of this extensive damage, contractors and inspectors have been unable to complete construction on her building. Therefore, because of the unusual, extreme situation Mrs. Hudson was in, the Commission granted a sixty day extension—as opposed to the usual 30 day extension—or until the July meeting. Construction on the building is still incomplete; therefore, Ms. Hudson has submitted a new, updated application for review by the Commission. All documentation has been submitted with the exception of the following:

- a. Use and Occupancy permit;
- b. TABC Inspection; and
- c. Acknowledgement of the rules and regulations.

Discussion/Action Taken:

Mrs. Donna Hudson was present at the meeting. Director Elks reviewed the application for the Commissioners. Director Elks stated that at the January Commission meeting, Mrs. Hudson applied for and was granted approval for a retail license subject to the receipt of certain documentation. While completing construction of the building, tornados hit the Gallatin area, and delayed the construction of her building. The Commission granted her an extension of time to open until July meeting. The approval for the extension of time has expired and Mrs. Hudson has resubmitted a new application seeking approval. Director Elks stated that the staff has received all documentation with the exception of the Use and Occupancy Permit, TABC Inspection, and acknowledgment of the rules and regulations; she recommended approval upon receipt of the remaining documentation. Commissioner Bond made a motion to approve upon submission of the remaining documentation. Chairman Jones seconded the motion and it passed with 3 ayes.

**D. JACKSON WINE AND SPIRITS
KINGSTON SPRINGS, TENNESSEE (CHEATHAM COUNTY)**

Applicant: Gary and Deborah Jackson

Before the Commission is a request for a new retail store to be located in Kingston Springs, Tennessee at 174 Luyben Hills Road. Gary and Deborah Jackson intend to operate the business as a partnership, and initially invest approximately \$80,000. Financing is based upon a \$52,800 promissory note with Community

Bank and Trust, and the remainder is based upon a home equity line of credit. All documentation has been submitted with the exception of the following:

- a. TABC Inspection;
- b. Acknowledgement of the Rules and Regulations;
- c. Verification Ms. Jackson is not employed by the state or city.

Discussion/Action Taken:

Gary and Deborah Jackson and Dan Haskell, attorney, were present at the meeting. Director Elks reviewed the application for the Commissioners. She stated that the staff has received all documentation with the exception of the Use and Occupancy Permit and the TABC Inspection and acknowledgment of the rules and regulations. She recommended approval upon receipt of the remaining documentation. Commissioner Mathews made a motion to approve upon submission of the remaining documentation. Commissioner Bond seconded the motion and it passed with 3 ayes.

**E. MIDTOWN SPIRITS
DECHERD, TENNESSEE (FRANKLIN COUNTY)**

Licensee/Seller: Kyle S. Grover
Applicant/Buyer: BWL Enterprises, LLC
Member: Barry Lamb

Before the Commission is a request for a transfer of ownership of the retail store located at 1925 Decherd Boulevard in Decherd, Tennessee. Mr. Barry Lamb intends to operate the business as an LLC. The purchase price for the business and assets is \$100,000. Mr. Lamb has obtained a bank loan in this amount from Franklin County United Bank, and intends to additionally invest \$20,000 from personal savings for working capital. All documentation has been submitted with the exception of the following:

- a. Signed copy of the lease to BWL Enterprises, LLC.

Discussion/Action Taken:

Director Elks reviewed the application for the Commissioners. Director Elks stated that the staff has received all documentation with the exception of the signature page of the lease to BWL Enterprises, LLC. Director Elks recommended approval upon receipt of the document. Commissioner Mathews made a motion to

approve upon submission of the remaining document. Commissioner Bond seconded the motion and it passed with 3 ayes.

**F. LAUDERDALE LIQUORS
MEMPHIS, TENNESSEE (SHELBY COUNTY)**

Licensee/Seller: De Angelis, LLC
Member: Michael DeAngelis
Applicant/Buyer: RDG Corporation
Stockholders: Risa Glankler

Before the Commission is a request for a transfer of ownership of the retail store located at 1502 S. Lauderdale in Memphis, Tennessee. Ms. Risa Glankler intends to operate the business as a corporation, with herself as the sole stockholder; Adam Glankler would be the Secretary/Treasurer. Ms. Glankler intends to initially invest approximately \$350,000--\$150,000 as the purchase price for the business and inventory, and the remainder for working capital. Financing is based upon a promissory note with Ms. Glankler's brother, Frank Glankler. All documentation has been submitted with the exception of the following:

- a. Acknowledgement of the rules and regulations by Ms. Glankler;
- b. Outstanding citations paid if any.

Discussion/Action Taken:

Director Elks reviewed the application for the Commissioners. She stated that the staff has received all documentation with the exception of the acknowledgment of the rules and regulations. She recommended approval upon receipt of the document. Commissioner Bond made a motion to approve upon submission of the remaining document. Commissioner Mathews seconded the motion and it passed with 3 ayes.

3. WINERY

**A. BEANS CREEK WINERY
MANCHESTER, TENNESSEE (COFFEE COUNTY)**

Licensee: Beans Creek Winery, LLC
Members: Tom Brown, Rebecca Brown, James Morton, Joseph McCrae, John Riddle, James Passons, Lisa Whitten, Barbara Lasater, and Donald Terry

Before the Commission is a request for transfer of stock ownership to include Ellen Smith and remove Lisa Whitten as members. In 2005, Ellen Smith was added as a member to the LLC when she invested \$25,000 and obtained a 7.4% ownership in the LLC. Ms. Whitten withdrew as a member, and assigned her interest back to the LLC also in 2005. Additionally, stock ownership has been re-distributed among the existing members. All documentation has now been submitted; however, an outstanding citation exists for the failure to notify the Commission of the actual owners of the business as well as a failure to cooperate by failing to submit requested documentation.

Discussion/Action Taken:

Director Elks reviewed the application for the Commissioners. Director Elks stated that the staff has received all documentation and a settlement of the citations. Therefore, Director Elks recommended approval. Commissioner Mathews made a motion to approve upon submission of the remaining document. Commissioner Bond seconded the motion and it passed with 3 ayes.

4. MANUFACTURERS

**A. LIVINGSTON CHOCOLATES
LIVINGSTON, TENNESSEE (OVERTON COUNTY)**

Applicant: Livingston Chocolate Company, Inc.
Stockholders: Julia Crowder Bishop and Free Lee Crowder, III

Before the Commission is a request for a new manufacturer license to be located at 701 North Church Street in Livingston, Tennessee. During the 2006 Legislative session, House Bill 3570 was passed a new definition for a manufacturer's license: the new definition allows an entity who blends non-alcoholic beverages with alcoholic beverages to qualify for a manufacturer's license. Livingston Chocolate Company, Inc. appears to meet the qualifications for a manufacturer's license under this definition. All documentation has been submitted with the exception of the following:

- a. TABC Inspection;
- b. Acknowledgement of the rules and regulations.

Discussion/Action Taken:

Director Elks reviewed the application for the Commissioners. Director Elks stated that the staff has received all documentation with the exception of the TABC Inspection and acknowledgment of the rules and regulations. She recommended approval upon submission of the pending documentation.

Commissioner Mathews made a motion to approve upon submission of the remaining document. Commissioner Bond seconded the motion and it passed with 3 ayes.

5. CONTESTED CASES

a. ADMINISTRATIVE CITATION HEARINGS

1. Tammie Annette Munn—Continued from July, 2006 meeting

On May 23, 2006, Respondent sold an alcoholic beverage to an undercover minor informant in violation of T.C.A. §57-4-203(b). The alleged incident took place at Betty's Parkway Restaurant. TABC Agent Larkins issued an administrative citation to Respondent. To date, this citation remains unpaid.

This matter was continued from the July, 2006 meeting because Ms. Munn's attorney had a conflict with the July date.

Discussion/Action Taken:

SA Matthew Larkins was present. Director Elks reviewed the matter for the Commissioners. Director Elks stated that this matter was continued from the July meeting because Ms. Munn's attorney had a conflict with the July date. She stated that the staff has not had contact with Ms. Munn or her attorney and requested a default judgment be granted so that the matter could be heard. Commissioner Mathews made a motion to grant the default judgment. Commissioner Bond seconded the motion and it passed with 3 ayes.

SA Larkins testified that at approximately 6:10 p.m., SA Tina Jack and he sent an underage confidential informant into Betty's Parkway Restaurant in an attempt to purchase an alcoholic beverage. The confidential informant went to the bar area. Ms. Tammie Annette Munn was the bartender. SA Jack was monitoring the conversation between the confidential informant and Ms. Munn. Agent Larkins went into the establishment, at which point the confidential informant was sitting at the bar with an alcoholic beverage placed in front of him and Ms. Munn was sitting just off to his side. SA Larkins testified the confidential informant was 19 years of age and his date of birth is 02/24/87. SA Larkins testified that he issued an administrative citation to Ms. Munn and wrote a violation report for the restaurant. SA Larkins testified that Ms. Munn asked the informant his age and he stated it was 02/24/87.

Chairman Jones made a motion to suspend the server permit for 90 days and assess a fine of \$250.00. Commissioner Mathews seconded the motion and it passed with 3 ayes.

2. Alfredo Castillo—Continued from July Commission Meeting

On May 4, 2006, Respondent sold an alcoholic beverage to an undercover minor informant in violation of T.C.A. §57-4-203(b). The alleged incident took place at Chapultepec. TABC Agent Fry issued an administrative citation to Respondent. To date, this citation remains unpaid.

This matter was originally continued at the June, 2006 meeting to give the Respondent an opportunity to hire an attorney. At the July, 2006 meeting, Assistant Director Carolyn Smith indicated that she had talked with an attorney representing the establishment, and that effort had been made to hire a Nashville attorney, Dan Haskell, to represent Respondent. Mr. Haskell confirmed to Ms. Smith that he had been contacted, but was not necessarily representing the Respondent. The Commission continued this matter until the August meeting, with the understanding that the matter would not be continued again.

Discussion/Action Taken:

Alfredo Castillo was present. Director informed the Commission that Chapultepec Restaurant has agreed to pay the fine for the citation against their establishment and to pay the fine for Alfredo Castillo. Mr. Castillo agreed that the matter is settled.

b. SERVER PERMIT HEARINGS

i. Amelia Manchester

On or about July 17, 2006, Ms. Manchester submitted an application for a server permit which indicated that on July 30, 2005, she had been convicted a felony—assault on a female officer. TABC staff denied this application based upon T.C.A. §57-3-704 which prohibits the issuance of a server permit to anyone who has been convicted of a felony within four years of the date of application. Ms. Manchester has appealed the denial.

Discussion/Action Taken:

Director informed the Commission that Ms. Manchester has requested a continuance to the September meeting. She stated that Ms. Manchester believes her conviction will be expunged from her record by the

September Commission meeting. Director Elks stated that the staff did not oppose the continuance. Director Elks stated that Ms. Manchester stated that her parole will be over in September and that she can have her record expunged by that date. Commissioner Mathews made a motion to continue the matter to the September meeting. Chairman Jones made a motion to amend the motion and to continue the matter to the October meeting to allow time for her record to be expunged. Commissioner Bond seconded Chairman Jones' motion and it passed with 3 ayes.

ii. Christopher Pitts, Sr.

In February, 2005, Mr. Pitts application for a server permit was denied by TABC staff for a felony conviction in May, 2002, for the conspiracy to sell cocaine, a Schedule II controlled substance. T.C.A. §57-3-704 prohibits the issuance of a server permit to anyone who has been convicted of a crime relating to the sale of a Schedule 1 or 2 controlled substance. The matter was continued until June, 2005 to give Mr. Pitts an opportunity to have his record expunged.

At the June, 2005 meeting, Chairman Jones stated that as long as Mr. Pitts met the requirements for the expungement of his record, but had not actually completed the paperwork necessary to obtain the order, the permit should be issued, and the Commission agreed.

Mr. Pitts has requested to return to the Commission and ask that a server permit be issued—notwithstanding the fact that all fines associated with the conviction has not yet been paid. Mr. Pitts has indicated in a letter that he does not make enough money to pay the bills and the fine without a server permit.

Discussion/Action Taken:

Director reviewed the matter to the Commission. Director Elks stated that in its previous decision, the Commission ordered that the \$1500 outstanding balance had to be paid to the court before his permit could be issued. Director Elks stated that Mr. Pitts had not paid the balance. Mr. Pitts indicated that he could not pay the balance because he did not make enough money without a server permit, and he was concerned about the balance going to a collection department.

It was noted that servers are given a 61 day grace period from the date of hire as a server to obtain a server permit.

Commissioner Mathews made a motion to allow sixty one days for Mr. Pitts to be allowed to serve alcoholic beverages pursuant to the grace

period. However, during this time period, Mr. Pitts must make timely payments to the court toward reducing the fine on an acceptable schedule. Commissioner Bond seconded the motion and it was approved with 3 ayes.

- 4. SPECIAL OCCASION LICENSES**
- 5. CONSUMER EDUCATION SEMINAR LICENSES**
- 6. PERSONNEL**
- 7. BUDGET**
- 8. CONSENT ORDERS**
- 9. PENDING MATTERS LIST**
- 10. MISCELLANEOUS** – Director Elks stated that Assistant Director Carolyn Smith had her son, Griffin, on July 26. Griffin weighed 7 pounds 4 ounces.

Special Agent Stacey Fry presented the findings of a survey regarding whether the fine of \$250 imposed on servers for serving/selling to minors for administrative citations is sufficient. SA Fry stated that she interviewed 100 people and took a sampling from the owners, server trainers, managers, servers and retail clerks. SA Fry stated that she did interviews from different ages, genders, races and backgrounds. The results indicated that most people believed that \$500 would be enough to deter them from serving/selling alcoholic beverages to minors. SA Fry stated that most people thought that \$250 was not enough, because most servers make that in one night.

- 11. DATE OF NEXT MEETING** – September 28 and October 26, 2006 at 1:00 p.m.

There being no further business the meeting was adjourned.

Shari Danielle Elks
Executive Director

John A. Jones
Chairman